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Attorneys for Plaintiffs

(Additional Counsel on next page)

IN THE UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

JOHN BURNELL, JACK POLLOCK,  
and all others similarly situated,

Plaintiffs,

v.

SWIFT TRANSPORTATION CO. OF  
ARIZONA, LLC,

Defendant.

**CASE NO. 5:10-CV-00809-VAP (OPx)**  
(Assigned to the Hon. Virginia A.  
Phillips)

**JOINT STIPULATION RE:  
REMOVAL OF PLAINTIFF JOHN  
BURNELL AS A PROPOSED  
REPRESENTATIVE PLAINTIFF**

Complaint Filed: March 22, 2010  
Trial Date: None Set

1 **Defendant's Counsel**

2 **SHEPPARD, MULLIN, RICHTER & HAMPTON, LLP**

3 A Limited Liability Partnership

4 Including Professional Corporations

5 PAUL S. COWIE, Bar No. 250131

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7 ROBERT MUSSIG, BAR No. 240369

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1 Plaintiff Gilbert Saucillo (“Plaintiff”) and Defendant Swift Transportation Co. of  
2 Arizona, LLC (“Defendant”) (hereinafter collectively, the “Parties”), by and through  
3 their counsel of record, hereby stipulate and agree as follows:

4 WHEREAS on March 22, 2010, this action was filed in State Court by Plaintiff  
5 and proposed representative plaintiff John Burnell;

6 WHEREAS on June 2, 2010, this matter was removed to this Court by  
7 Defendant, and assigned to this Court as Case No.10-CV-00809-VAP (OPx);

8 WHEREAS on October 12, 2010, this Court signed an Order permitting the  
9 filing of a First Amended Complaint which, among other amendments, added co-  
10 plaintiff Jack Pollack as an additional proposed representative plaintiff (Dkt no. 20);

11 WHEREAS, on July 16, 2013, Plaintiffs filed their Motion for Leave to File a  
12 Second Amended Complaint Substituting Gilbert Saucillo as a Representative Plaintiff  
13 in Place of Plaintiff Jack Pollock;

14 WHEREAS, on August 27, 2013, following this court’s Order thereon, Plaintiffs  
15 filed their Second Amended Complaint Substituting Gilbert Saucillo as a  
16 Representative Plaintiff in Place of Plaintiff Jack Pollock, and also leaving in place  
17 proposed representative plaintiff John Burnell;

18 WHEREAS, on May 4, 2016, this Court issued its Order denying the motion to  
19 certification filed by plaintiffs Burnell and Saucillo;

20 WHEREAS, in 2018, counsel for the proposed class in another similar matter  
21 also pending before this Court, styled as James R. Rudsell, et al. vs. Swift  
22 Transportation, Case No. EDCV-12-00692 VAP (OPx), began negotiations to attempt  
23 to resolve its claims, and eventually those negotiations expanded to also include the  
24 claims asserted in the Burnell action, so that all claims in the two actions could be  
25 addressed;

26 WHEREAS, the Parties to the two matters being negotiated have now reached a  
27

1 proposed settlement of the actions, and the claims asserted therein;

2 WHEREAS, over the course of the last two years, counsel for representative  
3 plaintiffs in the Burnell and Saucillo matter, Marlin & Saltzman LLP, have discovered  
4 that they have lost contact with plaintiff John Burnell;

5 WHEREAS, despite having retained the services of the very capable private  
6 investigation firm of David Batza & Associates to assist in the search for Mr. Burnell,  
7 they have been unable to re-connect with plaintiff John Burnell;

8 WHEREAS, in order to conclude the proposed settlement, it is necessary for the  
9 proposed representative plaintiffs in both actions to execute the agreement reached so  
10 as to document the settlement and then be able to present it to the Court for  
11 preliminary approval;

12 WHEREAS, given Plaintiff Burnell's unavailability, he is not able to be reached  
13 so as to enable him to execute the Settlement;

14 NOW THEREFORE, IT IS THE STIPULATION AND AGREEMENT OF  
15 COUNSEL, as follows:

- 16 1. That to enable the proposed settlement of these proposed class actions to move  
17 forward, that Plaintiff John Burnell will no longer serve as a proposed class  
18 representative of the putative class in the within Burnell and Saucillo action;
- 19 2. That Plaintiff Gilbert Saucillo will remain in the Burnell matter as the proposed  
20 class representative of said action;
- 21 3. That despite being removed as a proposed representative plaintiff, that any  
22 and all rights and claims that Plaintiff Burnell has as a putative class member  
23 shall remain valid and are not prejudiced by this stipulation; and,
- 24 4. The parties agree that this stipulation does not trigger the right to seek fees or  
25 costs that either party may be entitled to at the termination of this lawsuit.

1 **IT IS SO STIPULATED.**

2  
3 DATED: June 3, 2019

**MARLIN & SALTZMAN, LLP**  
**LAW OFFICES OF SHAUN SETAREH**

4  
5 By: /S/ Stanley D. Saltzman  
Stanley D. Saltzman, Esq.  
6 Attorneys for Plaintiffs

7 DATED: June 3, 2019

**SHEPPARD, MULLIN, RICHTER &**  
**HAMPTON, LLP**

8  
9  
10 By: /S/ Robert Mussig  
Paul S. Cowie, Esq.  
11 Robert Mussig, Esq.  
12 Attorneys for Defendant  
13 SWIFT TRANSPORTATION CO. OF  
14 ARIZONA, LLP

15  
16 Pursuant to Local Rule 5-4.3.4(a)(2), I attest that all of the signatories listed  
17 above concur in the contents of this filing and have authorized the filing of this  
18 document at the Proposed Order herewith.

19  
20 /S/ Stanley D. Saltzman  
21 Stanley D. Saltzman